

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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|--------------------------------|---|----------------------|
| HECTOR E. PINEIRO, |) | |
| Plaintiff |) | |
| |) | |
| v. |) | C.A. NO. 10-40262FDS |
| |) | |
| GARY J. GEMME, WORCESTER CHIEF |) | |
| OF POLICE & CITY OF WORCESTER, |) | |
| Defendants |) | |
| |) | |

DEFENDANTS' MOTION FOR JUDGMENT ON THE PLEADINGS

Defendants Gary J. Gemme, Chief of Police of the City of Worcester (the Chief) and the City of Worcester (City) (collectively, "City Defendants") hereby move this Court, pursuant to Fed. R. Civ. P. Rule 12(c) for judgment on the pleadings in the Defendants' favor. As grounds for this motion, Defendants state that: 1) Plaintiff fails to establish an actionable deprivation of his Second Amendment rights pursuant to the Supreme Court's decisions in Heller and McDonald entitling the City Defendants to judgment on the pleadings as to the federal civil rights claims; 2) Plaintiff fails, as a matter of law, to satisfy the requisite "shock the conscience" standard for a substantive due process violation; and 3) Plaintiff's Complaint fails to establish an actionable constitutional violation and that similarly situated citizens were treated differently to sustain an action for a violation of his equal protection rights.

As grounds for their motion, the City Defendants rely on their Memorandum of Law filed herewith.

GARY GEMME AND
CITY OF WORCESTER,

By their attorneys,

David M. Moore
City Solicitor

/s/ Kevin M. Gould

David M. Moore (BBO #352850)

City Solicitor

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CERTIFICATE OF LOCAL RULE 7.1 CONFERENCE

I, the undersigned, hereby certify that I conferred with Plaintiff's counsel in a good faith attempt to resolve or narrow the issues presented by this Motion.

/s/ Kevin M. Gould

Kevin M. Gould

Assistant City Solicitor

CERTIFICATE OF SERVICE

I, Kevin M. Gould, hereby certify that, on this 16th day of March, 2012, the within, Defendants' Motion for Judgment on the Pleadings, was served upon all counsel of record through this Court's electronic filing system as identified on the Notice of Electronic Filing, and paper copies will be sent to those indicated as non-registered participants.

/s/ Kevin M. Gould

Kevin M. Gould

Assistant City Solicitor